OFFICE OF THE PROCUREMENT EXECUTIVE
PROCUREMENT INFORMATION BULLETIN NO. 2001-17
SUBJECT: Implementation of Section 508 of the Rehabilitation Act

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1. Scope. This Bulletin is applicable to all domestic and overseas contracting activities and Regional Procurement Support Offices.

2. Background. On April 25, 2001, Federal Acquisition Circular (FAC) 97-27 was published in the *Federal Register*. This FAC contained changes to the Federal Acquisition Regulation (FAR) regarding the accessibility requirements of Section 508 of the Rehabilitation Act, and was the topic of Procurement Information Bulletin (PIB) 2001-13. As indicated in that PIB, beginning June 21, 2001, Federal agencies must acquire electronic and information technology that meets accessibility standards, with some exceptions.

We have determined that additional guidance beyond what was provided in the FAR is necessary to implement the requirements of Section 508. This PIB, therefore, contains additional guidance and documents for use primarily by requirements offices in identifying whether a particular requirement is subject to Section 508, identifying compliant Section 508 products and services, preparing undue burden and non-availability determinations, and conducting technical evaluations vis-à-vis the accessibility standards. It provides more detailed guidance to contracting officers on IDIQ requirements and provides a sample solicitation provision and contract clause for use in solicitations and contracts subject to Section 508.

This PIB contains a number of attachments, as follows:

1. General Background/Requirements/Definitions of Section 508
2. Steps in the Section 508 Determination and Acquisition Process
3. Section 508 Exception Checklist
4. EIT Accessibility Standards Applicability Checklist
5. EIT Commercial Non-Availability Determination
6. EIT Undue Burden Exception Determination
7. Sample Section 508 Solicitation Provision (Representation) and Contract Clause
8. IDIQ Contract Guidance (includes a contract clause)

This cover page and the attachments may be downloaded from A/OPE's Home Page on the Internet. The address is: http://www.statebuy.gov/ This PIB may also be downloaded from the A/OPE Intranet site at http://aope.a.state.gov/ and the Department's Program for Accessible Computer/Communication Technology (IMPACT) Intranet site at http://impact.state.gov

Issues will undoubtedly surface as the Federal Government continues its implementation of the Section 508 requirements. Most situations will need to be dealt with on a case-by-

case basis. Admittedly, every situation cannot be covered in one policy statement, given the short timeframe for implementation. A/OPE will forward any additional information, documents, tools, etc. that are developed.

3. Responsibilities and Requirements. Heads of contracting activities should take appropriate action based on the attached document. A Department Notice will also be issued to point requirements office officials to this policy and the associated documents. Questions and comments may be addressed to Gladys Gines on 703-516-1691, fax number 703-875-6155, or by e-mail.

4. Effective Date. June 21, 2001

6-08-01
Date

/s/
Lloyd W. Pratsch
Procurement Executive

Attachments: as stated

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Attachment 1

GENERAL BACKGROUND/REQUIREMENTS OF SECTION 508

Section 508 of the Rehabilitation Act of 1973, as amended ("the Act"), requires that when Federal agencies develop, acquire, maintain, or use Electronic and Information Technology (EIT), they must ensure that the EIT allows Federal employees with disabilities to have access to and use of information and data that is comparable to the access to and use of information and data by other Federal employees. It also requires that individuals with disabilities, who are members of the public seeking information or services from a Federal agency, have access to and use of information and data that is comparable to that provided to the public without disabilities. Failure of an agency to acquire EIT that complies with the standards may result in an individual with a disability filing a complaint alleging that a Federal agency has not complied with the standards. Individuals may also file a civil action against an agency. However, comparable access is not required if it would impose an undue burden on the Federal agency.

Pursuant to the Act, the Architectural and Transportation Barriers Compliance Board (Access Board) published standards on December 21, 2000. These standards set forth a definition of EIT and the technical and functional performance criteria necessary for accessibility for EIT. The standards are codified at 36 CFR part 1194.

What is "Electronic and Information Technology (EIT)"?

EIT is defined as any equipment or interconnected system or subsystem of equipment, that is used in the creation, conversion, or duplication of data or information, or used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

It includes, but is not limited to:

- Telecommunication products, such as telephones
- Information kiosks and transaction machines
- World Wide Web sites
- Multimedia
- Office equipment, such as copiers and fax machines
- Computers, ancillary equipment, software, firmware and similar procedures, services including support services, and related resources

It <u>does not</u> include any equipment with embedded information technology that does not manage data or information as its principal function, such as HVAC or medical equipment.

Other Important Definitions

"Alternate formats" is defined as formats usable by people with disabilities and may include, but are not limited to, Braille, ASCII text, large print, recorded audio, and electronic formats that comply with this part.

"Alternate methods" is defined as different means of providing information, including product documentation, to people with disabilities. Alternate methods may include, but are not limited to, voice, fax, relay service, TTY, Internet posting, captioning, text-to-speech synthesis, and audio description.

"Assistive technology" is defined as any item, piece of equipment, or system, whether acquired commercially, modified, or customized, that is commonly used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"Equivalent facilitation" is defined as designs or technologies which do not meet the technical aspects of the Access Board's standards, but offer a substantially equivalent or greater degree of accessibility for people with disabilities than would be achieved with strict adherence to the technical standards.

"Operable controls" is defined as a component of a product that requires physical contact for normal operation. Operable controls include, but are not limited to, mechanically operated controls, input and output trays, card slots, keyboards, or keypads.

"Self Contained, Closed Products" is defined as products that generally have embedded software and are commonly designed in such a fashion that a user cannot easily attach or install assistive technology. These products include, but are not limited to, information kiosks and information transaction machines, copiers, printers, calculators, fax machines, and other similar types of products.

"Telecommunications" is defined as the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

"TTY" is defined as an abbreviation for teletypewriter. Machinery or equipment that employs interactive text based communications through the transmission of coded signals across the telephone network. TTYs may include, for example, devices known as TDDs (telecommunication display devices or telecommunication devices for deaf persons) or computers with special modems. TTYs are also called text telephones.

"Undue burden" is defined as a significant difficulty or expense. In determining whether an action would result in an undue burden, an agency must consider all agency resources available to the program or component for which the product is being developed, procured, maintained, or used.

Attachment 2

STEPS IN THE SECTION 508 DETERMINATION AND ACQUISITION PROCESS

These steps are listed to assist the requirements office and others in going through the process of identifying Section 508 requirements, processing exceptions, and acquiring Section 508 products when required. We have listed the steps in the sequence as we believe they would normally occur. There may be cases, however, where the sequence will be different, e.g., you may need to conduct market research at an earlier point than is listed here, or you may be able to certify undue burden at an earlier stage because of your existing knowledge of the market place.

Step 1 - Determine if what you are buying is electronic and information technology (EIT). This is done by reviewing the definition of EIT. If you are not sure if your requirement falls within the definition of EIT, contact the IRM Program for Accessible Computer/Communication Technology (IMPACT), the Department of State's resource for Section 508 information. IMPACT may be e-mailed via section508@state.gov

Step 2 - If your requirement is defined as EIT, determine if it falls under one of the EIT exceptions. The following are the exceptions to the accessibility standards at 36 CFR 1194:

a) The standards do not apply to any EIT which involves the following:

- Intelligence activities;
- Cryptographic activities related to national security;
- Command and control of military forces;
- Equipment as an integral part of a weapon or weapon system; and,
- Systems critical to the direct fulfillment of military or intelligence missions.

b) Products to be acquired by a contractor incidental to a contract. Contractor employees in their professional capacity are not members of the public for purposes of Section 508.
c) Products or components of products that would require a fundamental alteration in their nature.
d) Products located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring.
e) EIT that would impose an undue burden on the agency. Undue burden is defined as a significant difficulty or expense. (More information on this exception is provided later.)

If you determine that your requirement falls under EIT exceptions (a) – (d), then:

- complete the checklist shown in Attachment 3; and

- submit it to the contracting officer along with the purchase request.

For requirements that fall under EIT exceptions (a) – (d) where the purchase is made using the Governmentwide purchase card, the cardholder must complete the checklist. Maintain the original in the purchase card file.

Exception (e) (undue burden) requires significantly more documentation and is discussed as a separate step in the process.

Step 3 – If you are purchasing EIT and none of the exceptions apply, then familiarize yourself with the Access Board standards to determine which of the standards apply. The standards were published in the *Federal Register* on December 21, 2000. They are codified at 36 CFR 1194. Specific technical standards are provided for: software applications and operating systems (§1194.21); Web-based intranet and internet information and applications (§1194.22); telecommunications products (§1194.23); video and multimedia products (§1194.24); self contained, closed products (§1194.25); and, desktop and portable computers (§1194.26). Additional functional performance criteria are provided at §1194.31, and product support documentation criteria is provided at §1194.41. The standards may be accessed on the Internet at http://www.section508.gov or through the Department's Intranet at http://impact.state.gov

Attachment 4, EIT Accessibility Standards Checklist, is provided to assist you in determining which standards apply to your requirement. The numbering of the standards is identical to the Access Board's regulation. IMPACT is also available to assist you in identifying the applicable standards.

Step 4 – Conduct market research to determine the availability of compliant products and services. Market research is defined as "collecting and analyzing information about capabilities within the market to satisfy agency needs" (FAR 2.101). Vendor web sites are a valuable source of information, as well as the Government's Section 508 website. The Government does not plan to develop a list of compliant products due to "endorsement liability." IMPACT is also available to assist you in determining if compliant products exist.

Market research should reveal if compliant EIT is available on the commercial marketplace. There may be some products on the market that are partially compliant, i.e., the products meets some, but not all, of the applicable standards. Or, market research may indicate that there is no compliant EIT currently available.

Finally, your market research may show that purchase of compliant EIT would impose an undue burden on the agency, e.g., the cost of the compliant EIT is significantly higher than non-compliant EIT. (See additional information on undue burden in Step 6.)

Step 5 – Identify which standards, if any, would not apply to your requirements because of non-availability. Prepare the EIT Commercial Non-Availability Determination if you determine that there are standards which would not apply due to non-availability. *(Skip this step if you determine that fully compliant EIT is commercially available.)* You may determine that compliant EIT is not available (and purchase non-compliant or partially compliant EIT) when you cannot find a commercial item that both meets all of the applicable Access Board standards and can be furnished in time to meet your delivery requirements. (See FAR 2.101 for a complete definition of commercial item.) If you find products that are partially compliant, you may claim that the product as a whole is non-available because it does not meet all of the accessibility standards. However, you must comply with those accessibility standards that can be met that are available on the commercial marketplace in time to meet your delivery requirements.

You may also use Attachment 4 to document which standards are or are not commercially available.

If you determine that fully compliant EIT is not available, you must prepare a written justification. Attachment 5, EIT Commercial Non-Availability Determination, should be used to document the non-availability of compliant EIT. The determination must be provided to the contracting officer along with the purchase request.

For requirements where the purchase is made using the Governmentwide purchase card, the cardholder must complete the determination. Maintain the original in the purchase card file.

Step 6 – If you determine that purchase of compliant EIT would impose an undue burden, prepare the EIT Undue Burden Exception Determination. An undue burden is defined as one which would cause significant difficulty or expense. In determining whether your requirement would result in an undue burden, you must consider all agency resources available to the program or component for which the product(s) is/are being developed, acquired, maintained, or used. However, note that agencies must still provide alternative means of access that allows individuals with disabilities to use the information and data.

Attachment 6, EIT Undue Burden Exception Determination, should be used to document the undue burden finding. For each provision of 36 CFR 1194 (see Attachment 4) that you find to be an undue burden, you must explain why, and to what extent, compliance with each provision creates an undue burden. A thorough explanation is required. Relevant attachments are encouraged. Remember that this document must be adequate to survive protests and litigation challenges.

Please note that both the office director and the Chief Information Officer (CIO) must approve this determination. This determination must be provided to the contracting officer along with the purchase request.

For requirements where the purchase is made using the Governmentwide purchase card, the cardholder must complete the determination and obtain approval from the office director and the Chief Information Officer. Maintain the original in the purchase card file.

Step 7 – Prepare the technical specifications based on the results of the market research. Provide to the contracting officer, with the purchase request, a list of those accessibility standards that apply to your requirement. You can use the checklist in Attachment 4, as modified to show only the applicable standards, for this purpose. The checklist should be modified by deleting the "Applicable" column and changing the columns which read "Is Commercially Available" and "Is Not Commercially Available" to read "Compliant" and "Not Compliant" under each item to be purchased. The contracting officer can use this checklist in the solicitation to require the vendors to check the block so that they may easily indicate what features of their product(s) are/are not compliant with the applicable accessibility standard.

Be sure to list all of the applicable standards, even if you have made a commercial non-availability determination. You may discover that someone that you were unaware of may have a fully compliant product or service available.

For example, let's say that you need to purchase computers and you have determined that the accessibility standards of §1194.26, Desktop and Portable Computers, apply. Here's how the checklist in Attachment 4 can be modified to be included in the solicitation:

1194.26 Desktop and Portable Computers	Item 1		Item 2	
	Compliant	Not Compliant	Compliant	Not Compliant
(a) All mechanically operated controls and keys shall comply with §1194.23(k)(1) through (4).				
(b) If a product utilizes touchscreens or touch-operated controls, an input method shall be provided that complies with §1194.23(k)(1) through (4).				
(c) When biometric forms of user identification or control are used, an alternative form of identification or activation, which does not require the user to possess particular biological characteristics, shall also be provided.				
(d) Where provided, at least one of each type of expansion slots, ports and connectors shall comply with publicly available industry standards.				

Step 8 – Submit the purchase request to the contracting officer. The purchase request should contain a description of the product(s) to be acquired, the applicable accessibility standards, any exception determinations, and other information necessary for the contracting officer to begin preparing the solicitation.

Once you have submitted the purchase request to the contracting officer, the contracting officer will prepare and issue a solicitation to receive offers from interested sources, if the acquisition will be done on the open market. The contracting officer may also decide to place a delivery order under an existing contract.

Step 9 (for contracting officers only) – Prepare the solicitation or issue the delivery/task order. Prepare a solicitation or a delivery/task order as usual. Attachment 7 contains a sample solicitation provision and contract clause that we recommend for use in the solicitation.

Step 10 – Evaluate offers received and make an award selection. This may be one of the most difficult steps in the process. As with any acquisition, the technical evaluation must be customized to suit the conditions of each action. No pre-assigned technical evaluation value can be given to compliance with the EIT accessibility standards. The FAR does not address the manner in which compliance should be technically evaluated.

Keep in mind that even if not fully compliant, we are required to buy the commercial product that provides the greatest degree of compliance while satisfying other functional requirements. Some form of graduated evaluation is necessary. Depending on the planned use of the products, the technical evaluation values of compliance with the various standards may vary. All other requirements of the agency and requiring official are still relevant and evaluated as well. The Section 508 standards constitute an ***additional*** set of requirements to be evaluated with the others.

A "best value" approach to evaluating offers or proposals appears to be the best for accommodating Section 508. This method generally ensures maximum flexibility in consideration of the multiple requirements to be satisfied. One of the reasons for this is that should your acquisition process require an "undue burden" justification, either at the point of initial purchase request development or during offer/proposal evaluation, the requiring official is required by regulation to provide for an ***alternative means*** of access to allow an individual with a disability to use the information or data. This alternative means will usually have associated effort, labor, cost and time, yet it is not a requirement within the acquisition process. But, it needs to be included in the best value determination.

In order to help simplify an otherwise complex and potentially confusing technical evaluation requirement, the Department of the Treasury prepared an Excel spreadsheet, Electronic & Information Technology Accessibility Standards Evaluation. This spreadsheet can be found at the IMPACT Intranet site or at the Department of Treasury website at http://www.ustreas.gov/procurement It is similar to the checklists provided in

this PIB, but assigns weighted values to each standard to allow for distinctions to be made among offered products and their levels of compliance. The Technical Evaluation Panel would transfer the information provided by the offerors in the EIT Accessibility Standards Compliance Representation to the spreadsheet so that the calculations can be made.

The contracting officer may modify any of the evaluative aspects of the spreadsheet to suit his/her specific acquisition process. However, deletion of any of the standards is not recommended due to cross-references and their interdependence.

Use of this spreadsheet approach is not mandatory. Contracting officers may use any evaluation method which they deem appropriate. This is merely one suggestion of what will probably be many different ways of evaluating compliance with Section 508.

Attachment 3

SECTION 508 EXCEPTION CHECKLIST

[If an exception applies, complete this checklist and provide it to the contracting officer with the procurement request; or, complete it and maintain it in the purchase card file.]

EXCEPTION	Check (3) if Applicable
The EIT involves intelligence activities.	
The EIT involves cryptographic activities related to national security.	
The EIT involves the command and control of military forces.	
The EIT involves equipment as an integral part of a weapon or weapons system.	
The EIT involves systems critical to the direct fulfillment of military or intelligence missions.	
The EIT is for products to be acquired by a contractor incidental to a contract.	
The EIT is for products or components of products that would require a fundamental alternation in their nature.	
The EIT is for products located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring.	
Purchase of EIT that meets the applicable accessibility standards would impose an undue burden on the agency. *(Attach the EIT Undue Burden Exception Determination to this checklist.)*	

_____

Signature Printed Name Date
Title
Requirements Office

Attachment 4

EIT ACCESSIBILITY STANDARDS CHECKLIST

[Use this checklist to assist in determining which standards apply as well as which standards are commercially available. This checklist can also be modified for inclusion in the solicitation so that offerors may check off which aspects of their products are or are not compliant.]

TECHNICAL SPECIFICATIONS			
Standards Group/Standard	**Applicable? (Check)**	**Is Commercially Available**	**Is Not Commercially Available**
1194.21 Software Applications and Operating Systems (36 CFR 1194.21)			
(a) When software is designed to run on a system that has a keyboard, product functions shall be executable from a keyboard where the function itself or the result of performing a function can be discerned textually.			
(b) Applications shall not disrupt or disable activated features of other products that are identified as accessibility features, where those features are developed and documented according to industry standards. Applications also shall not disrupt or disable activated features of any operating system that are identified as accessibility features where the application programming interface for those accessibility features has been documented by the manufacturer of the operating system and is available to the product developer.			
(c) A well-defined on-screen indication of the current focus shall be provided that moves among interactive interface elements as the input focus changes. The focus shall be programmatically exposed so that assistive technology can track focus and focus change.			
(d) Sufficient information about a user interface element including the identity, operation and state of the element shall be available to assistive technology. When an image represents a program element, the information conveyed by the image must also be available in text.			
(e) When bitmap images are used to identify controls, status indicators or other programmatic elements, the meaning assigned to those images shall be consistent throughout an application's performance.			
(f) Textual information shall be provided through operating system functions for			

displaying text. The minimum information that shall be made available is text content, text input caret location, and text attributes.			
(g) Applications shall not override user selected contrast and color selections and other individual display attributes.			
(h) When animation is displayed, the information shall be displayable in at least one non-animated presentation mode at the option of the user.			
(i) Color coding shall not be used as the only means of conveying information, indicating an action, prompting a response, or distinguishing a visual element.			
(j) When a product permits a user to adjust color and contrast settings, a variety of color selections capable of producing a range of contrast levels shall be provided.			
(k) Software shall not use flashing or blinking text, objects, or other elements having a flash or blink frequency greater than 2 Hz and lower than 55 Hz.			
(l) When electronic forms are used, the form shall allow people using assistive technology to access the information, field elements, and functionally required for completion and submission of the form, including all directions and cues.			
1194.22 Web-Based Intranet and Internet Information and Applications (See Note)			
(a) A text equivalent for every non-text element shall be provided (e.g., via “alt”, “longdesc”, or in element content).			
(b) Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.			
(c) Web pages shall be designed so that all information conveyed with color is also available without color, for example from context or markup.			
(d) Documents shall be organized so they are readable without requiring an associated style sheet.			
(e) Redundant text links shall be provided for each active region of a server-side image map.			
(f) Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.			
(g) Row and column headers shall be identified for data tables.			
(h) Markup shall be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.			
(i) Frames shall be titled with text that facilitates frame identification and navigation.			
(j) Pages shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.			
(k) A text-only page, with equivalent information or functionality, shall be provided			

to make a web sire comply with the provisions of this part, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.			
(l) When pages utilize scripting languages to display content, or to create interface elements, the information provided by the script shall be identified with functional text that can be read by assistive technology.			
(m) When a web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies with §1194.21(a) through (l).			
(n) When electronic forms are designed to be completed on-line, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.			
(o) A method shall be provided that permits users to skip repetitive navigation links.			
(p) When a times response is required, the user shall be alerted and given sufficient time to indicate more time is required.			
1194.23 Telecommunications Products			
(a) Telecommunications products or systems which provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. Microphones shall be capable of being turned on and off to allow the user to intermix speech with TTY use.			
(b) Telecommunication products which include voice communication functionality shall support all commonly used cross-manufacturer non-proprietary standard TTY signal protocols.			
(c) Voice mail, auto-attendant, and interactive voice response telecommunications systems shall be usable by TTY users with their TTYs.			
(d) Voice mail, messaging, auto-attendant, and interactive voice response telecommunications systems that require a response from a user within a time interval, shall give an alert when the time interval is about to run out, and shall provide sufficient time for the user to indicate more time is required.			
(e) Where provided, caller identification and similar telecommunications functions shall also be available for users of TTYs, and for users who cannot see displays.			
(f) For transmitted voice signals, telecommunications products shall provide a gain adjustable up to a minimum of 20 dB. For incremental volume control, at least one intermediate step of 12 dB of gain shall be provided.			
(g) If the telecommunications product allows a user to adjust the receive volume, a			

function shall be provided to automatically reset the volume to the default level after every use.			
(h) Where a telecommunications product delivers output by an audio transducer which is normally held up to the ear, a means for effective magnetic wireless coupling to hearing technologies shall be provided.			
(i) Interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) shall be reduced to the lowest possible level that allows a user of hearing technologies to utilize the telecommunications product.			
(j) Products that transmit or conduct information or communication, shall pass through cross-manufacturer, non-proprietary, industry-standard codes, translation protocols, formats or other information necessary to provide the information or communication in a usable format. Technologies which use encoding, signal compression, format transformation, or similar techniques shall not remove information needed for access or shall restore it upon delivery.			
(k) Products which have mechanically operated controls or keys, shall comply with the following: (1) Controls and keys shall be tactilely discernible without activating the controls or keys. (2) Controls and keys shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls and keys shall be 5 lbs. (22.2 N) maximum. (3) If key repeat is supported, the delay before repeat shall be adjustable to at least 2 seconds. Key repeat rate shall be adjustable to 2 seconds per character. (4) The status of all locking or toggle controls or keys shall be visually discernible, and discernible either through touch or sound.			
1194.24 Video and Multimedia Products			
(a) All analog television displays 13 inches and larger, and computer equipment that includes analog television receiver or display circuitry, shall be equipped with caption decoder circuitry which appropriately receives, decodes, and displays closed captions from broadcast, cable videotape, and DVD signals. As soon as practicable, but not later than July 1, 2002, widescreen digital television (DTV) displays measuring at least 7.8 inches vertically, DTV sets with conventional displays measuring at least 13 inches vertically, and stand-alone DTV tuners, whether or not they are marketed with display screens, and computer equipment that includes DTV receiver or display circuitry, shall be equipped with caption decoder circuitry which appropriately receives, decodes, and displays closed captions from broadcast, cable, videotape, and DVD signals.			

(b) Television tuners, including tuner cards for use in computers, shall be equipped with secondary audio program playback circuitry.			
(c) All training and informational video and multimedia productions which support the agency's mission, regardless of format, that contain speech or other audio information necessary for the comprehension of the content, shall be open or closed captioned.			
(d) All training and informational video and multimedia productions which support the agency's mission, regardless of format, that contain visual information necessary for the comprehension of the content, shall be audio described.			
(e) Display or presentation of alternate text presentation or audio descriptions shall be user-selectable unless permanent.			
1194.25 Self Contained, Closed Products			
(a) Self contained products shall be usable by people with disabilities without requiring an end-user to attach assistive technology to the product. Personal headsets for private listening are not assistive technology.			
(b) When a times response is required, the user shall be alerted and given sufficient time to indicate more time is required.			
(c) Where a product utilizes touchscreens or contact-sensitive controls, an input method shall be provided that complies with §1194.23 (k)(1) through (4).			
(d) When biometric forms of user identification or control are used, an alternative form of identification or activation, which does not require the user to possess particular biological characteristics, shall also be provided.			
(e) When products provide auditory output, the audio signal shall be provided at a standard signal level through an industry standard connector that will allow for private listening. The product must provide the ability to interrupt, pause, and restart the audio at any time.			
(f) When products deliver voice output in a public area, incremental volume control shall be provided with output amplification up to a level of at least 65 dB. Where the ambient noise level of the environment is above 45 dB, a volume gain of at least 20 dB above the ambient level shall be user selectable. A function shall be provided to automatically reset the volume to the default level after every use.			
(g) Color coding shall not be used as the only means of conveying information, indicating an action, prompting a response, or distinguishing a visual element.			
(h) When a product permits a user to adjust color and contrast settings, a range of color selections capable of producing a variety of contrast levels shall be provided.			
(i) Products shall be designed to avoid causing the screen to flicker with a frequency			

greater than 2 Hz and lower than 55 Hz.			
(j) Products which are freestanding,, non-portable, and intended to be used in one location and which have operable controls shall comply with the following: (1) The position of any operable control shall be determined with respect to a vertical plane, which is 48 inches in length, centered on the operable control, and at the maximum protrusion of the product within the 48 inch length (see figure 1 of this part). (2) Where any operable control is 10 inches or less behind the reference plane, the height shall be 54 inches maximum and 15 inches minimum above the floor. (3) Where any operable control is more than 10 inches and not more than 24 inches behind the reference plane, the height shall be 46 inches maximum and 15 inches minimum above the floor. (4) Operable controls shall not be more than 24 inches behind the reference plane (see Figure 2 of this part.)			
1194.26 Desktop and Portable Computers			
(a) All mechanically operated controls and keys shall comply with §1194.23(k)(1) through (4).			
(b) If a product utilizes touchscreens or touch-operated controls, an input method shall be provided that complies with §1194.23(k)(1) through (4).			
(c) When biometric forms of user identification or control are used, an alternative form of identification or activation, which does not require the user to possess particular biological characteristics, shall also be provided.			
(d) Where provided, at least one of each type of expansion slots, ports and connectors shall comply with publicly available industry standards.			
FUNCTIONAL PERFORMANCE CRITERIA			
1194.31 Functional Performance Criteria			
(a) At least one mode of operation and information retrieval that does not require user vision shall be provided, or support for assistive technology used by people who are blind or visually impaired shall be provided.			
(b) At least one mode of operation and information retrieval that does not require visual acuity greater than 20/70 shall be provided in audio and enlarged print output working together or independently, or support for assistive technology used by people who are visually impaired shall be provided.			
(c) At least one mode of operation and information retrieval that does not require user hearing shall be provided., or support for assistive technology used by people who are deaf or hard of hearing shall be provided.			

(d) Where audio information is important for the use of a product, at least one mode of operation and information retrieval shall be provided in an enhanced auditory fashion, or support for assistive hearing devices shall be provided.			
(e) At least one mode of operation and information retrieval that does not require user speech shall be provided, or support for assistive technology used by people with disabilities shall be provided.			
(f) At least one mode of operation and information retrieval that does not require fine motor control or simultaneous actions and that is operable with limited reach and strength shall be provided.			
INFORMATION, DOCUMENTATION, AND SUPPORT			
1194.41 Information, Documentation, and Support			
(a) Product support documentation provided to end-users shall be made available in alternate formats upon request, at no additional charge.			
(b) End-users shall have access to a description of the accessibility and compatibility features of products in alternate formats or alternate methods upon request, at no additional charge.			
(c) Support services for products shall accommodate the communication needs of end-users with disabilities.			

Note: The Board interprets paragraphs (a) through (k) of §1194.22 as consistent with the following priority 1 Checkpoints of the Web Content Accessibility Guidelines 1.0 (WCAG 1.0) (May 5, 1999) published by the Web Accessibility Initiative of the World Wide Web Consortium:

Section 1194.22 Paragraph	WCAG 1.0 Checkpoint
(a)	1.1
(b)	1.4
(c)	2.1
(d)	6.1
(e)	1.2
(f)	9.1
(g)	5.1
(h)	5.2
(i)	12.1
(j)	7.1
(k)	11.4

Attachment 5

EIT COMMERCIAL NON-AVAILABILITY DETERMINATION.

1. Discuss your findings regarding the non-availability of compliant commercial items. Include which applicable technical standards of Section 508 will not be met by each product to be acquired.

2. Describe the methodology used to determine the non-availability of compliant commercial items.

3. List the sources used to investigate the availability of compliant commercial items, e.g., other Federal agencies; contacts with industry trade associations; accessible product organizations such as IRS Information Resources Accessibility Program (IRAP) and GSA's Center for IT Accommodation; Federal Supply Schedules; IRS' Disabled Employees Support Acquisitions Contract (DESAC II) contract; Internet market research; industry consultation; Request for Information published in FedBizOpps; contact with the Department's IMPACT group.

Note: Even if not fully compliant, you are required to acquire the commercial item that provides the greatest degree of compliance while satisfying other functional requirements.

Determination

I have determined that the product(s) I require is/are not currently available in a fully compliant version in the commercial marketplace, nor is/are they expected to become available in a compliant version in time to satisfy my delivery requirements.

_____

Signature	Printed Name Title Requirements Office	Date

Attachment 6

EIT UNDUE BURDEN EXCEPTION DETERMINATION

1. Describe the products or services required to meet the agency's needs.

2. State the dollar value of the acquisition, including any options.

3. List the applicable Section 508 accessibility standards (see Attachment 4) that are unmet.

4. Describe the market research performed to locate commercial items that meet the applicable accessibility standards.

5. Describe the undue burden (i.e., the significant difficulty or expense the Department would incur in order to comply with a particular accessibility standard). If the monetary expense is a basis for the undue burden, explain the costs and how they were estimated. Describe the insufficient agency resources available to the office or program for which the product(s) or service(s) is/are being acquired.

6. Describe the alternative means of access that will be provided that will allow individuals with disabilities to use the information or data. Include effort, labor, costs and time required to implement the alternative means.

Determination

I have determined that acquisition of the applicable EIT product(s) or service(s) required by my organization that are subject to Section 508 of the Rehabilitation Act of 1973, as Amended, imposes an undue burden.

_____

Signature | Printed Name
Title
Requirements Office | Date

Approved by:

_____

Signature | Printed Name
Title
Requirements Office Director | Date

Approved by: _____

Chief Information Officer | Date

Attachment 7

SAMPLE SOLICITATION PROVISION (REPRESENTATION) AND CONTRACT CLAUSE

The following sample representation should be included in Section K of the solicitation:

EIT Accessibility Standards Compliance Representation (June 2001)

(a) The Department of State has determined that the following Section 508 accessibility standards, as codified at 36 CFR §1194 and shown in the chart below, apply to this solicitation.

(b) The offeror represents, by checking the applicable box for each item listed below, which product(s)/service(s) are compliant with each listed standard. The item(s) are identified as follows:

Item 1 – *[Contracting officer list the item, e.g., laptop computers]*, as identified in Section _____ of this solicitation

Item 2 –*[Contracting officer list the item]*, as identified in Section _____ of this solicitation

(c) The offeror further represents that all EIT products and services represented in this chart that are less than fully compliant are offered pursuant to extensive market research, which ensures that they are the most compliant products and services available to satisfy this solicitation's requirements.

[Contracting officer insert chart]

The following contract clause may be used:

Accessibility of Electronic and Information Technology (June 2001)

(a) Each electronic and Information Technology (EIT) product or service furnished under this contract shall comply with the Section 508 Accessibility Standards (36 CFR 1194), as specified in the contract. If the Contracting Officer determines any furnished product or service is not in compliance with the contract, the Contracting Officer will promptly inform the contractor in writing. The contractor shall, at no cost to the Government, repair or replace the non-compliant products or services within the period of time specified by the Contracting Officer. If the repair or replacement if not completed within the time specified, the Contracting Officer may:

(1) Cancel the contract, delivery or task order, purchase or line item without termination liabilities; or

(2) In the case of custom EIT being developed for under this contract, have any necessary changes made or repairs performed by Government employees or by another contractor and the contractor must reimburse the Government for any expenses incurred thereby.

(b) For every EIT product or service accepted under this contract by the Government that does not comply with 36 CFR 1194, the contractor must, at the discretion of the Contracting Officer, make every effort to replace or upgrade it with a compliant equivalent product or service, if commercially available and cost neutral, on either the planned refresh cycle of the product or service, or on the contract renewal date, whichever occurs first.

Attachment 8

INDEFINITE QUANTITY, INDEFINITE DELIVERY (IDIQ) CONTRACT GUIDANCE

The Accessibility of Electronic and Information Technology clause shown in Attachment 7 need not be used for IDIQ contracts (unless EIT is acquired as part of the initial award) since both compliant and non-compliant products may be offered by such contracts, regardless of award date. However, contracting offices that award indefinite-quantity contracts must indicate to ordering offices which supplies and services the contractor indicates as compliant, and show where full details of compliance can be found (e.g., vendor's or other web page location).

Contracting officers may wish to evaluate for initial award the extent of Section 508 compliant products being offered versus the non-compliant products in order to encourage offerors to emphasize compliant products. This can be done in a variety of ways, including provision by the offeror of a listing of compliant products, since it is required to provide one for ordering officials per the FAR. The contracting officer may evaluate the percentage of compliant products relative to the total variety offered.

The clause may be included in **Section C** of an IDIQ solicitation to satisfy the new FAR subpart 39.203 (b) (2) and provide other assurances. If the contracting officer is also seeking the list for proposal evaluation purposes, he/she will need to include something similar in solicitation **Section L** as well.

For existing IDIQ contracts which are still in effect and under which ordering will take place after June 21, 2001, contracting officers should modify the contracts to include this clause.

Compliance with Section 508 of the Rehabilitation Act of 1973, as Amended

(a) The Contractor must provide a comprehensive list of all offered specific electronic and information technology (EIT) products that fully comply with Section 508 of the Rehabilitation Act of 1973, per the 1998 Amendments, and the Architectural and Transportation Barriers Compliance Board's Electronic and Information Technology Accessibility Standards at 36 CFR Part 1194. The Contractor must clearly indicate where this list with full details of compliance can be found (e.g., vendor's or other exact web page location). The contractor must ensure that the list is easily accessible by typical users beginning five calendar days after award. The contractor must maintain this detailed listing of compliant products for the full contract term, including all forms of extensions, and must ensure that it is current within three calendar days of changes to its product line.

(b) For every EIT product accepted under this contract by the Government that does not comply with 36 CFR Part 1194, the contractor shall, at the discretion of the Government, make every effort to replace or upgrade it with a compliant equivalent product, if commercially available and cost neutral, on either the planned refresh cycle of the product or service, or on the contract renewal date, whichever shall occur first.